

## 1 UNITED STATES DISTRICT COURT

## 2 DISTRICT OF NEVADA

3 MARK MANIBUSAN,

4 Plaintiff

5 v.

6 NEVADA DEPARTMENT OF  
7 CORRECTIONS, et al.,

8 Defendants

Case No. 3:17-cv-00303-MMD-CBC

✓ ORDER	
FILED	RECEIVED
ENTERED	SERVED ON
COUNSEL/PARTIES OF RECORD	
APR 17 2019	
CLERK US DISTRICT COURT	
DISTRICT OF NEVADA	
BY: _____	DEPUTY

## 9 I. DISCUSSION

10 Plaintiff was a prisoner in the custody of the Nevada Department of Corrections  
11 ("NDOC") when he filed this action without an attorney. (ECF No. 1-1). On May 22, 2018,  
12 the Court screened that original complaint and gave Plaintiff leave to amend. (ECF No.  
13 6.) Plaintiff subsequently filed a first amended complaint pro se. (ECF No. 9.) He then  
14 filed a supplement to that amended complaint. (ECF No. 10.) Plaintiff now has counsel,  
15 and counsel has filed a document entitled "Third Amended Complaint." (ECF No. 15.)  
16 Plaintiff has paid the full filing fee in this matter. (See ECF No. 8).

17 The general rule under 28 U.S.C. § 1915A is that "[t]he court shall review . . . a  
18 complaint in a civil action in which a prisoner seeks redress from the governmental entity  
19 or officer or employee of a governmental entity" and "shall identify cognizable claims or  
20 dismiss the complaint, or any portion of the complaint" if it is "frivolous, malicious, or fails  
21 to state a claim upon which relief can be granted; or . . . seeks monetary relief from a  
22 defendant who is immune from such relief." 28 U.S.C. § 1915A(a), (b).

23 Section 1915A does not expressly differentiate between represented and  
24 unrepresented prisoner cases with regard to screening, and there is no authority  
25 addressing this issue. This Court typically does not screen § 1983 prisoner cases where  
26 the Plaintiff is represented by counsel. For one thing, the pleading obligations of an  
27 attorney under Fed. R. Civ. P. 11 tend to substantially reduce the incidence of claims that  
28 are frivolous or otherwise patently non-cognizable on their face. Pro se litigants are not

1 attorneys and should not be expected to know how to draft pleadings as if they were.  
2 Judicial screening of prisoner complaints serves to prevent prisoner complaints which are  
3 truly difficult, if not impossible to understand, from being served upon defendants.  
4 Screening of represented cases to decipher the allegations and claims is usually  
5 unnecessary. See, e.g., *Nordstrom v. Ryan*, 762 F.3d 903, 907 n.1 (9th Cir. 2014) (noting  
6 that the “purpose of § 1915A is to ensure that the targets of frivolous or malicious suits  
7 need not bear the expense of responding”); *O’Neal v. Price*, 531 F.3d 1146, 1153 (9th  
8 Cir. 2008) (explaining that the PLRA’s screening provision was intended to “conserve  
9 judicial resources by authorizing district courts to dismiss non-meritorious prisoner  
10 complaints at an early stage”). Therefore, the Court will not screen the counseled third  
11 amended complaint. This case shall proceed on the normal litigation track as guided by  
12 the Federal Rules of Civil Procedure.

13 **II. CONCLUSION**

14 For the foregoing reasons, IT IS ORDERED that the Court will not issue a  
15 screening order on the third amended complaint.

16 IT IS FURTHER ORDERED that this case shall proceed on the rormal litigation  
17 track as guided by the Federal Rules of Civil Procedure.

18  
19 DATED THIS 17<sup>th</sup> day of April 2019.

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22 UNITED STATES MAGISTRATE JUDGE  
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